

REMINDERS FOR SKILLED PROFESSIONAL MEDICAL PERSONNEL

- ❑ You may use the codes reserved for Skilled Professional Medical Personnel (SPMP) if you meet the following qualifications:
 - A. You are in a position that requires skilled medical professional education and training, based on your job description.
 - B. You have completed program of two years or longer leading to an academic degree or licensure or certification in a medically related field (M.D., P.A., R.N., LVN with a two-year program, master's level social worker) or a degree in a medical field from an accredited university or college program.
 - C. You work for a public agency.
- ❑ Code 4: SPMP Outreach to Medically-at-Risk Individuals and the SPMP Medicaid Care Coordination activities included in Codes 9A – 9I are enhanced codes reserved by use by SPMP. These SPMP codes should be used only when you are using your professional medical knowledge and skills to perform the activity. In other words, does the activity routinely require a specific level of medical expertise and training to perform? If it does not, then the non-SPMP version of the activity code should be used.
- ❑ The use of SPMP codes has recently come under more scrutiny by the federal government in some settings. Therefore, it is important to distinguish between activities (or the portion of an activity) that require medical expertise and training and those that do not.
- ❑ *A rule of thumb:* Use the SPMP code when, in your professional judgment, you used your medical knowledge and skill to perform the activity. If the same activity could be performed for the same purpose or with the same result by staff without your same medical knowledge and skill, then do not use the SPMP code.
- ❑ The following examples may provide further guidance in using the SPMP codes.
 - *SPMP Skilled Professional Medical Consultation and Assistance:* A registered nurse consults with a group of child care providers about caring for children with seizure disorders and the appropriate responses to medical emergencies they may experience.
 - *Non-SPMP Referral, Linkage, Coordination & Monitoring of Medical Services:* A registered nurse assists a parent to schedule an appointment for her child with a pediatric neurologist.
 - *SPMP Interagency Coordination of Medicaid Services:* A licensed audiologist attends an interagency task force meeting to work on developing new clinical protocols for infant hearing screens and follow-up at local hospitals.
 - *Non-SPMP Community Resource Development, Systems Planning and Interagency Coordination of Medicaid Services:* A licensed audiologist attends a monthly meeting of an Aging Services task force; data on the elderly's access to speech, language and hearing aid services is reviewed.
 - *SPMP Outreach to Medically-at-Risk Individuals:* A licensed clinical social worker uses her clinical assessment skills to identify at-risk teen mothers who might benefit from behavioral health services covered by Medicaid.
 - *Non-SPMP Medicaid Outreach:* A nutritionist provides information to a single mother on the availability of Early Periodic Screening, Diagnosis and Treatment (EPSDT) services for her children, and how to enroll in Medicaid.

Skilled Professional Medical Personnel

Introduction:

Local Health Jurisdictions may employ staff who meet the federal qualifications to be designated as Skilled Professional Medical Personnel (SPMP). With such designation, the LHJ claiming unit has the potential to be reimbursed at the enhanced rate of 75% FFP for the cost of time reported to the activities codes subsumed under Code 9:SPMP Medical Care Coordination. Documenting that SPMP meet all the federal requirements that are a condition of enhanced reimbursement is critical. The federal laws and regulations that govern SPMP status are described below, as well as the requirements for qualifying as an SPMP.

Statutory Basis for SPMP

- Section 1903(a)(2) of the Social Security Act provides for increased FFP for medical staff, as follows:
 - “...an amount equal to 75 per centum of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to compensation or training of skilled professional medical personnel, and staff directly supporting such personnel of the State agency or any other public agency...”
- The intent of section 1903(a) (2) is to encourage States to employ medical staff with professional medical expertise to develop and administer Medicaid programs that are “medically sound as well as administratively efficient.”
- “Professional medical knowledge” is necessary to shape the medical aspects of the program. Skilled professional Medicaid personnel are distinguished from skilled professional medical personnel.

Regulatory Basis for SPMP

Final revised SPMP regulations were issued on Nov. 12, 1985, superseding any previous regulations and policy guidelines by the Health Care Financing Administration (now CMS) or its predecessor agency. 42 *Code of Federal Regulations (CFR)* 432.2 defines directly supporting staff, skilled professional medical personnel and staff of other public agencies. Section 432.45 specifies that the enhanced FFP is not available for state personnel who conduct survey activities and certify facilities for Medicaid participation.

Section 432.50, in part, specifies that 75% FFP is available for staffing and training costs of SPMP and directly supporting staff of the Medicaid agency of other public agencies and that the allocation of their costs must be based on either the actual percentages of time spent carrying out duties in the specified areas or another methodology approved by HCFA.

Section 432.50(d)(1)(i-v) delineates other limitations on FFP, including a definition of professional education and training. And lastly, 42 *CFR* 433.15 states that 75% FFP is available for compensation and training of SPMP and staff directly supporting them if all criteria in 432.50 (c) and (d) are met. (Please refer to the Appendix for the text of these regulations.)

Criteria for Determining SPMP

There are seven specific criteria that must be satisfied. They are:

- (1) **The expenditures that qualify for enhanced FFP are salary or other compensation, fringe benefits, travel, per diem and training of SPMP and their directly supporting staff when they are performing activities that are directly related to the administration of the Medicaid program.** Operating expenses (e.g., rent and supplies) and indirect costs charged directly or allocated to these personnel qualify for 50% FFP.
- (2) **SPMP have professional education and training in the field of medical care or appropriate medical practice.** This is defined as completion of a two-year or longer program leading to an academic degree or certificate in a medically related profession, demonstrated by possession of a medical license, certificate or other document issued by a recognized National or State medical licensure or certifying organization or a degree in a medical field issued by a college or university certified by a professional medical organization.

The medical license or certificate must document the minimal two-year professional education and training requirement. In other words, an individual with a certificate or license (such as a licensed practical nurse) does not automatically qualify as an SPMP if s/he has not completed the requisite two-year degree program in the field of medical care.

The a recent financial review guide issued by CMS mentions using the “American Universities and Colleges” reference guide, compiled by the American Council on Education, to check on degree fields considered medical in nature (those listed under “Health Professions”) and whether a college or university is certified by a professional medical organization.

Several Departmental Appeals Board decisions have discussed SPMP status by professional degree and license as part of their rulings in a particular case. These discussions are summarized below:

Psychology. The Review Guide notes that the Departmental Appeals Board (DAB), in Decision No. 1033, determined that a Ph.D. in psychology together with a State license to practice as a psychologist meets the educational limitation for SPMP status.

Medical Social Work. According to the Review Guide, the issuance of DAB decisions on medical social work prompted the federal agency to “rethink policy regarding professional education requirements.” The threshold for for social workers to qualify as SPMP is “...if their education (including training received as part of academic work) specifically included the health care and/or medical applications of the social work field.’ Work experience or on-the-job training could not be substituted for meeting the educational requirements.”

State agencies must show that social workers’ education and training in social work specifically includes health care and/or medical applications. The Review Guide notes that States should use graduate level concentrations, or specializations or tracks, as defined by various MSW programs, to identify those social workers that would be eligible for the enhanced rate.

CMS also recommends that States demonstrate an “education equivalency” for every social worker being claimed as SPMP where the schools they attended do not offer medical or health concentrations, or where they are offered but the social worker did not complete one.

CMS laid out guidelines for its auditors to use when reviewing MSWs being claimed as SPMP. State agencies must show that each social worker has an MSW degree, and as part of the course work for the master’s degree, a specialization (track or concentration) in clinical practice, health care practice, other medical application, or its equivalent.

The CMS Financial Review Guide specifies the equivalency standards, as follows:.

- a) Completion of a graduate degree at a school that offered health care or medical specializations but the social worker formally concentrated in another area. The social worker would qualify if he/she completed as many health courses as would be required for a concentration in health care.
- b) If the applicable graduate program offers concentrations, but none distinctly in health care or medical applications, the transcript must show at least as many credits received in health care as would be required for any of the concentrations offered. For example, if a minimum of four courses is required for any concentration, the transcript must show completion of at least four courses in health or medical applications.
- c) If the applicable MSW program did not offer concentrations at all, the transcript must show more credits received in health care or medical applications than in any other specialized area of study.

No amount of on-the-job experience in a Medicaid agency or any other job or employment situation can be substituted for professional education and training.”

In these earlier DAB decisions, it was clear that states needed to distinguish between medical social workers and individuals with an MSW degree without a medical or health focus. The DAB, in its findings, considered the education/training of individual social workers. It stressed that having medical coursework or courses with medical application of social work, including field work in a health or medical setting, was the standard, and that on-the-job training or work experience did not apply. The DAB, however, refrained from establishing the actual courses or numbers of courses that qualified, but rather considered these on an individual basis.

A later DAB decision in West Virginia (Decision No.1434) in 1993 mentioned the CMS standard of a medical or health care concentration. However, it did not specifically apply this standard when reviewing individual social workers in this appeal; the DAB again looked at courses and field placements with a medical/health care content.

The Review Guide's use of the medical or health care concentration as the criterion, or alternative "education equivalency" requirements, narrows the definition of SPMP status for social workers.

The "concentration" and "equivalent education" standards were applied in a 2004 Office of the Inspector General (OIG) audit of SPMP payments received by the West Virginia Bureau for Medical Services. The OIG recommended a refund of claims for social workers that did not have a master's degree in social work or had a master's degree but the State did not have documentation that the graduate course work included the required specialization [in clinical practice, health care practice, other medical application, or its equivalent].

- (3) SPMP must be in positions that have duties and responsibilities that require those professional medical knowledge and skills.** The function performed by the SPMP must require that level of medical expertise to be performed effectively. The primary evidence of this would be position descriptions, job announcements or job classifications.

The Review Guide states that the reviewer may also want to establish whether the position is listed in a handbook or dictionary of occupational titles as an appropriate medical classification (such as the Occupational Outlook Handbook, Bureau of Labor Statistics, U. S. Department of Labor or the Standard Occupational or the "standard Occupational Classification Manual," National Technical Information Service, U. S. Department of Commerce).

Examples of functions that would meet the "functional" criteria include, but are not limited to, the following:

- Acting as a liaison on the medical aspects of the program with providers of services and other agencies that provide medical care.
- Furnishing expert medical opinions for the adjudication of administrative appeals.
- Reviewing complex physician billings.
- Providing technical assistance and drug abuse screening on pharmacy billings.
- Participating in medical review or independent professional review team activities.
- Assessing the necessity for and adequacy of medical care and services provided, as in utilization review.
- Assessing, through case management activities, the necessity for and adequacy of medical care and services required by individual recipients. (Excluded is case management provided under an approved HCBS waiver.)

The Review Guide also listed functions which do not require professional medical expertise and therefore do not qualify for 75% FFP. CMS notes in the Guide that this list is not all inclusive.

- Accounting and auditing
- Budgeting
- Program management for categories of services not requiring medical expertise: emergency transportation, non emergency transportation, and home and community-based waiver services.
- Program analysis where the emphasis is cost or utilization of services in lieu of the medical aspects of the program.

- Cost reimbursement including all analytical work, related to the program cost of covered services, cost report settlement, and establishment of rates.
- Program integrity including any investigation and follow-up activities not directly involving the determination of the medical necessity of specific services.
- Third party liability activities/overpayment collection activities.
- Administrative practices and procedures including the development of State plans, administrative rates, cost allocation and provider agreements.
- All claims processing activities except...IS THIS DONE?
- EPSDT, including all outreach activities such as notifying clients of required screens from a periodicity schedule, scheduling appointments, informing clients and arranging transportation.
- Eligibility determination
- Legal services including administrative appeals.
- Contract management.

FFP would be available at 50% for an otherwise qualified SPMP performing a function which is unrelated to the specialized field of medical care and requires no skilled medical training. Time spent by a qualified SPMP on supervisory related administrative functions such as personnel, staff meetings, counseling, etc., would be allowable at 50% FFP. When a team performs an SPMP function (e.g., medical review team), each individual team member must qualify as an SPMP to claim his/her time at the enhanced rate.

(4) A state-documented employer-employee relationship must exist between the Medicaid agency (or any other public agency) and the SPMP and directly supporting staff. .

The federal interpretation here is that the personnel are under the State's merit personnel system in all aspects as documented by the State's personnel and payroll system and records. For the most part, 75% FFP is not allowed for contractors with private organizations or independent contractors. In situations where the Medicaid agency (or any other public agency) contracts directly for personal services as a common method of securing services of an SPMP, it must demonstrate that a documented employer-employee relationship exists directly between them and the Medicaid agency (or any other public agency). The Review Guide tells its reviewers to examine the substantive relationship between the parties on a case-by-case basis. The standard laid out in the Guide follows:

“Generally, if the substantive relationship specified in the contract indicates that the Medicaid agency or any other public agency has control over when, where, and how the contractor works, we would allow this level of control to indicate that a documented employer-employee relationship exists, even though that person may not be under the State's merit personnel system as documented in the personnel and payroll record systems of the State.”

It does not include employees of a State's fiscal agent or other contractor, who may contract with or employ SPMPs directly. These contracts would be reimbursed at only 50% FFP.

(5) Directly supporting staff are secretarial, stenographic, and copying personnel and file and records clerks who provide clerical services that are directly necessary for the completion of the professional medical responsibilities and functions of the skilled professional medical staff. The skilled professional medical staff must directly supervise the supporting staff and the performance of the supporting staff's work.

The Review Guide notes that “support staff” is defined in the congressional reports as “clerical staff,” who are interpreted to be those mentioned in the previous paragraph. The Guide notes that other sub professional staff, such as administrative and management assistants, statistical or accounting clerks, office managers, technicians, cannot be claimed at the enhanced rate, if they provide support to SPMPs.

There must be documentation or other evidence that the “direct support” (defined as clerical services, such as typing, filing, copying, preparing correspondence, preparing records and other general office work) is directly related and necessary to the completion of the professional medical functions of the SPMP. The SPMP must be immediately responsible for the work performed by the clerical staff and must directly supervise (immediate first-level supervision) the supporting staff and the performance of that staff’s work. The best evidence of this, according to the Review Guide, would be that the SPMP is responsible for the supporting staff’s performance appraisal.

Enhanced (75%) FFP is allowed only for that portion of the clerical time related to the performance of the SPMP’s skilled medical functions.

- (6) The rate of 75% FFP is available for SPMP and directly supporting staff of other public agencies if all of the applicable criteria in items 1-5 are met and the public agency has a written agreement with the Medicaid agency to verify that those requirements are met.**

Where SPMP and directly supporting staff employed by public agencies other than the Medicaid agency assist in the administration of the Medicaid program, they can get 75% FFP for the costs of salary or other compensation, benefits, travel, per diem and training as long as there is a written interagency agreement specifying that the staff and their functions meet the applicable criteria.

The agreement should also spell out the “directly related” duties that the other public agency will perform—those necessary to the operation of the Medicaid program. An entity is considered public if it is part of State and local government and subject to supervision and control of a governmental unit; the receipt of Federal funding does not in itself bestow public status to a private agency.

- (7) FFP must be prorated for split functions for SPMP and directly supporting staff.**

Only the portion of an individual’s working time that is spent in performing SPMP duties can be reimbursed at 75% FFP. Where the SPMP and directly supporting staff spend less than 100% of their time in SPMP functions, their costs must be allocated among all functions, based on actual time spent in each function or another approved methodology. According to the Review Guide, CMS accepts current timesheets kept by the SPMP personnel or some form of sampling methodology. Proration is needed when an SPMP is also a supervisor performing general administrative functions that must be claimed at 50% FFP.